



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No. 2649-02
15 October 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting, in effect, that his discharge be upgraded.

2. The Board, consisting of Messrs. Lippolis, Nicholson, and Dunne, reviewed Petitioner's allegations of error and injustice on 9 October 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 24 February 1943 at age 14 and, on 4 March 1943, was called to active duty. At that time, the records show that he had completed 8 years of education.

On 14 September 1943, Petitioner submitted a statement to the effect that he had enlisted in the Naval Reserve as his brother, Armand Julian Lamoureux, because he was only 14 years old and wanted to serve. Further he stated that he falsified his

mother's parental consent form because he was enlisting underage. Based on this statement, his records were corrected to reflect his correct name and date of birth.

d. On 25 October 1943, after the refusal of his parents to provide their parental consent for Petitioner to remain on active duty, the discharge authority directed a special order discharge by reason of unsuitability for naval service due to immaturity. On 8 November 1943, he was so discharged. A special order discharge is roughly equivalent to today's general discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board now finds the existence of an injustice warranting corrective action. The Board concludes that although Petitioner was discharged correctly based on regulations in effect at that time, his period of service of over six months was without incident, and he clearly enlisted with a view to serving his country in time of war. Accordingly, the Board believes that the special order discharge no longer serves any useful purpose and, as a matter of clemency, should be changed to an honorable discharge. Therefore, the Board concludes that relief in the form of recharacterization is appropriate.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the record to show that he was issued an honorable discharge on 8 November 1943 vice the special order discharge actually issued on that date. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



FR W. DEAN PFEIFFER
Executive Director